

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

KENDLE RASHEN HAWKINS,

Defendant.

CASE NO. CR21-5213RSM

ORDER DENYING SECOND MOTION TO
SUPPRESS EVIDENCE

This matter comes before the Court on Defendant Hawkins's Second Motion to Suppress Evidence recovered by law enforcement pursuant to a Search Warrant and Pen-Trap Order that was authorized on May 20, 2021, and a subsequent Search Warrant that was authorized on June 14, 2021. Dkt. #74. Mr. Hawkins has been charged in a Superseding Indictment with Possession of Fentanyl with Intent to Distribute and Felon in Possession of a Firearm. Dkt. #44. Although this is a stand-alone indictment, this case is related to those brought against approximately 39 other Defendants under 13 different cause numbers. *See* Dkts. #21, 31, and 34.

The Court previously heard a very similar Motion to Suppress, Dkt. #39, and denied it. *See* Order at Dkt. #64. The Court incorporates by reference the facts and legal analysis of that Order.

Mr. Hawkins now argues for suppression of evidence recovered by law enforcement pursuant to the search warrant signed on June 14, 2021, in part because the Court found the first

1 warrant issued on May 20, 2021, to be “too thin and insufficiently reliable.” Dkt. #74 at 1.

2 However, the Court’s Order went on to state:

3 Furthermore, the Court agrees that “[e]ven if there were flaws in the
4 GPS Warrant or subsequent warrants that undermine these three
5 magistrates’ findings of probable cause, the *Leon* good-faith
6 exception would apply.” Dkt. #54 at 29 (citing, 468 U.S. at 920–
7 21). Under *Leon*, evidence is admissible if police obtained it in
8 “objectively reasonable reliance” on a search warrant, even if a
9 reviewing court later invalidates the warrant. *Leon*, 468 U.S. at 922.
10 “When officers have acted pursuant to a warrant, the prosecution
11 should ordinarily be able to establish objective good faith without a
12 substantial expenditure of judicial time.” *Id.* at 924. *Leon*’s good-
13 faith exception applies in all but four circumstances: (1) when the
14 warrant is “so facially deficient” that no executing officer could
15 reasonably presume it to be valid; (2) when the warrant results from
16 recklessly or knowingly misleading the issuing judge; (3) when the
17 affidavit supporting the warrant is “bare bones”; and (4) when the
18 issuing judge “wholly abandons his or her judicial role.” *Id.* at 922–
19 23. None of those circumstances apply to the warrants here.

20 Dkt. #64 at 5–6. Mr. Hawkins acknowledges that finding but states, “[t]he Cell Site Simulator
21 Warrant affidavit was equally deficient with respect to its effort to establish probable cause, and
22 the affidavit itself provides the basis as to why the traffic stop was not reasonable and why the
23 *Leon* good faith exception does not apply.” Dkt. #74 at 2.

24 The Government argues there is no reason for the Court to depart from its prior rulings
25 and that “Hawkins’s untimely motion is also effectively a motion to reconsider the Court’s
26 previous ruling—although it is not labelled as such—yet it does not meet the stringent
27 requirements for such a motion.” Dkt. #78 at 1–2. More specifically, they state:

28 This issue has already been decided. This Court closely examined
29 the GPS Warrant Affidavit and determined that “none of those
30 circumstances appl[ied],” including the “bare bones” exception.
31 Dkt. 64, at 5–6. The CSS Warrant has the same evidence as the GPS
32 Warrant and more. It was not bare bones. Because there was at least
33 a colorable argument for probable cause here, the agents had every
34 reason to believe that the CSS Warrant was valid, and this Court
35 should again conclude that the agents relied on it in good faith.

1 *Id.* at 10.

2 “Motions for reconsideration are disfavored.” Local Criminal Rule 12(b)(13)(A). “The
3 court will ordinarily deny such motions in the absence of a showing of manifest error in the prior
4 ruling or a showing of new facts or legal authority which could not have been brought to its
5 attention earlier with reasonable diligence.” *Id.*

6 The Court agrees that Mr. Hawkins’s Motion is essentially a mislabeled motion for
7 reconsideration. It addresses the same issues previously ruled on by the Court without attempting
8 to show manifest error or new facts or legal authority which could not have been brought to the
9 Court’s attention earlier with reasonable diligence. On that basis alone, the Court could deny
10 this Motion.
11

12 Even after analyzing the substance of Mr. Hawkins’s Motion, the Court continues to find
13 that the traffic stop was lawful and that the *Leon* good faith exception applies for the reasons
14 stated by the Court previously and precludes granting the requested relief. The Court agrees that
15 the CSS Warrant has the same evidence as the GPS Warrant and more, and that Mr. Hawkins has
16 failed to demonstrate any other basis to find that this was a bare bones affidavit.
17

18 Having reviewed the briefing for this Motion, along with the remainder of the record, the
19 Court hereby finds and ORDERS that Defendant’s Second Motion to Suppress, Dkt. #74, is
20 DENIED.

21 DATED this 24th day of May, 2023.
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23 

24 RICARDO S. MARTINEZ
25 UNITED STATES DISTRICT JUDGE
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